S.B.CIVIL WRIT PETITION NO.5542/2005

(Gurseb Singh v.State of Rajasthan & Ors.)

Date of Order :: 7th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. G.R.Goyal, for the petitioner.
Mr. Shyam Ladrecha, Addl.Govt.Advocate.

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While holding the post of Executive Engineer, Anupgarh Branch Division-I, Sri Bijaynagar the petitioner stood retired from service on 31.5.1998. At the time of retirement the petitioner was facing a disciplinary proceeding under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958, therefore, instead of payment of all post retiral benefits only provisional pension in accordance with Rule 90 of the Rajasthan Civil Services (Pension) Rules, 1996 (hereinafter referred to as “the Rules of 1996”) was allowed to the petitioner under an order dated 2.3.2000, i.e. after a lapse of about two years from the date of retirement of the petitioner. Under an order dated 27.2.2003 passed by the disciplinary authority the petitioner was exonerated from the charges of misconduct alleged under the memorandum dated 2.9.1997, as a consequent thereto the petitioner became entitled for getting regular pension and also for all post retiral benefits.

The grievance of the petitioner is that the respondents paid provisional pension to the petitioner

after a lapse of 21 months from the date of his retirement and all other terminal benefits were also given to him after 64 months from the date of his retirement, as such he is entitled for getting interest upon the amount paid at a belated stage. The petitioner has substantiated his contention by placing reliance upon a Division Bench judgment of this Court in the case of State of Rajasthan v. O.P.Srivastava, reported in 2004(1) SCT 607. By the judgment referred above the Division Bench of this Court affirmed an order passed by Central Administrative Tribunal on 15.3.2001 awarding interest @ 12% per annum on delayed payment of post retiral benefits.

In the instant matter in light of provisions of Rule 90 of the Rules of 1996 the petitioner became entitled for getting provisional pension from the date of his retirement but the same was paid by the respondents after a lapse of about 21 months.

In reply to the writ petition the respondents utterly failed to provide any satisfactory reason for delay in making payment of provisional pension. A sum of Rs.4,39,750/- was also paid to the petitioner after a lapse of about 64 months from the date of his retirement. It is true that upto 27.2.2003 the petitioner was facing an inquiry but the order for making payment of terminal benefits including payment of gratuity and commutation was passed on 20.9.2003

i.e. after a lapse of about seven months from the date the petitioner was exonerated from the charges. The delay in making such payment is also because of the respondents and the petitioner cannot be denied the payment of interest on the amount of Rs.4,39,750/- for the period referred above.

In view of the factual position stated above the petitioner is certainly entitled for getting interest on the amount paid to him as provisional pension after a lapse of two years from the date of his retirement and also on the amount of Rs.4,39,750/- that was paid to the petitioner on 20.9.2003 instead of 27.2.2003.

Accordingly, this petition for writ is allowed. The respondents are directed to make payment of interest to the petitioner on the amount of provisional pension that was paid to him on 2.3.2000 i.e. after a lapse of about 21 months from the date of his retirement. The petitioner is also declared entitled to receive interest @ 12% per annum on the amount of Rs.4,39,750/- required to be computed from the date of his retirement.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.